

FOR ARGUMENT

IN THE
Supreme Court of the United States
OCTOBER TERM, 1976

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Nos. 75-1261
75-1355

SECRETARY OF AGRICULTURE,

Appellant,

v.

KAREN HEIN, *et al.*,

Appellees.

KEVIN J. BURNS, *etc., et al.*,

Appellants,

v.

KAREN HEIN, *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF IOWA

BRIEF FOR THE APPELLEES

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STATUTES AND REGULATIONS INVOLVED

The pertinent provisions of the Food Stamp Act of 1964, as amended, 7 U.S.C. §§2011, *et seq.*, the Social Security Act of 1935, as amended, 42 U.S.C. §§301, *et seq.*, and state and federal regulations promulgated thereunder, insofar as they are not included in the Jurisdictional Statements and Briefs filed by the Appellants in No. 75-1261 and No. 75-1355, are set forth in Appendix A, *infra*, pp. 1a-13a.

QUESTIONS PRESENTED

1. Do the Appellant's regulations, which substantially reduce Federal Food Stamp assistance to a household solely on the basis of a household member's receipt of a government allowance for necessary commuting in connection with participation in a government sponsored training program, violate the Food Stamp Act and other federal statutes?

2. Do the same regulations violate the Equal Protection and Due Process guarantees of the Fifth and Fourteenth Amendments to the United States Constitution?

3. Does the District Court's Order violate the Eleventh Amendment because one of its ancillary effects may be that the State will incur certain administrative costs, when the State is required by federal statute to bear such costs?

STATEMENT OF THE CASE

Although some aspects of the Appellants'¹ respective statements of the case are accurate, others are confusing and misleading. The following paragraphs will first outline the factual and procedural background of the case, and then will address one respect in which the Appellants' briefing has obfuscated the nature of the controversy and of the District Court's decision.

In October of 1968, Appellee Karen Hein was divorced and was awarded custody of her two minor children; at that time, she became eligible for public assistance, including Aid to Families with Dependent Children (AFDC)² and Food Stamps.³ *Hein v. Burns*, 402 F.Supp. 398, 401 (S.D. Iowa 1975), Butz J.S., p. 4a; Jt. App. 23. Each month, Appellee Hein received an AFDC grant of \$220, and she was permitted to purchase \$94 worth of Food Stamp coupons for \$46, Jt. App. 23;⁴ in addition, Appellee Hein received \$28.75 per month in rental income.⁵ In September of 1972, the Muscatine, Iowa, Department of Social Services approved Appellee Hein for an "Individual Education and Training Plan" under which she would receive training at the St. Luke's School of Nursing in

¹ This brief is being filed jointly in both *Butz v. Hein*, No. 75-1261, and *Burns v. Hein*, No. 75-1355. As used herein, the term "Appellants" will refer to the Appellants in both No. 75-1261 and No. 75-1355.

² See 42 U.S.C. §601, *et seq.* (1974).

³ See 7 U.S.C. §2011, *et seq.* (1974).

⁴ The general operation of the Food Stamp program is adequately described in the Brief for the Appellant in No. 75-1261 (hereinafter "Butz Brief"), pp. 3-4.

⁵ Under present regulations, a three-person household would receive a monthly AFDC grant of \$294, Iowa Department of Social Services *Employees' Manual* V-App-14 (App. A, p. 8a, *infra*), and would be permitted to purchase \$130 worth of Food Stamp coupons for \$82, 7 C.F.R. 271.10, App. A.

Davenport, Iowa, which was the closest facility to Muscatine, Iowa, Appellee Hein's place of residence, that provided such training.⁶ 402 F.Supp. at 401, Butz J.S., p. 4a; Jt. App. 24. As part of her Individual Education and Training Plan, Ms. Hein was granted an allowance of \$44.00 per month⁷ for necessary commuting expenses thereunder. At all times material to this action, Ms. Hein was commuted to Davenport to attend classes at St. Luke's. *Ibid.*

Solely because of Appellee Hein's receipt of the above-described grant for necessary commuting expenses under her Individual Education and Training Plan, the State Appellants,⁸ consistently with state and federal regulations governing the Food Stamp program, added \$44.00 per month to Ms. Hein's "income" for purposes of calculating the price which she would have to pay in order to purchase for herself and her children the monthly allotment of food stamps for a family of three. At the same time, the State Appellants did not deduct from "income" the amount of the grant or the additional commuting expenses that were necessitated by Appellee Hein's participation in the Individual Education and Training Plan.⁹ The end result was that

⁶ The distance between Muscatine and Davenport is approximately 25 miles.

⁷ At this time, a recipient engaged in a part-time Individual Education and Training Plan would receive a monthly "training related expense allowance" at the rate of 15¢ per mile for the number of miles between her home, child care facility, and the site of the training facility, while a participant in a full-time Plan would be entitled to a training related expense allowance of \$60. Iowa Admin. Code 770-55.4(249C) (State Appellants' Brief, p. 6a); Iowa Dept. of Soc. Services *Employees' Manual* XIII-8-5 (Appendix A, p. 9a, *infra*).

⁸ The term "State Appellants" will refer to the Appellants in No. 75-1355, Kevin J. Burns (Commissioner of the Department of Social Services of the State of Iowa) and Elizabeth Masterson (Director of the Muscatine, Iowa, Department of Social Services.).

⁹ Deductions are given for such educational expenses as tuition, fees, and child care. 7 C.F.R. 271.3(c)(1)(iii)(d), (f).

Ms. Hein was required to pay \$58.00 per month for \$94.00 worth of Food Stamp coupons, rather than the \$46.00 per month she was required to pay for the same amount of Food Stamps before she was approved for her Individual Education and Training Plan and received her allowance for necessary educational commuting expenses. 402 F.Supp. at 405, Butz J.S., p. 14a; Jt. App. 24. In short, solely on the basis of her receipt of a state-approved educational expense allowance which was *necessary* for additional travel in connection with her participation in a government-sponsored Individual Education and Training Plan, and none of which was available for family food purchases, Appellee Hein's Food Stamp benefits, and hence her ability to purchase an adequate diet for herself and her two children, were reduced by at least \$12.00 per month. [In fact, the amount of the deprivation was more than \$12 per month. Since Ms. Hein did not actually have any additional income that was available to pay the additional \$12 for \$94 worth of stamps, she was forced to buy less than her allotted food stamp coupons. Jt. App. 26. Under the schedules then in effect, the next higher allotment Ms. Hein could have purchased (for \$43.50) was \$71.00 worth of food stamp coupons. (Plaintiff's Exhibit #2, p. 3, Hearing on Jan. 24, 1974, App. B, p. 4b, *infra*). Since the resulting food stamp bonus would have been \$27.50, rather than the \$48.00 bonus Appellee received before receiving her educational travel grant, her effective food purchasing ability would then have been \$20.50 less than before she received the grant for necessary commuting expenses.]

After exhausting administrative remedies, Appellee Hein brought this action on her own behalf and, pursuant to Rule 23, Fed.R.Civ.Pro., on behalf of all other persons similarly situated, challenging on statutory and constitutional grounds the validity of the state

regulations under which her family's Food Stamp benefits had been reduced. On March 4, 1974, the District Court, sitting as a three-judge court pursuant to 28 U.S.C. §§2281 and 2284, unanimously granted Appellee and the class she represented injunctive relief on the ground that the policies she had challenged were inconsistent with the Federal Food Stamp Act. *Hein v. Burns*, 371 F.Supp. 1091 (S.D.Ia. 1974), Jt. App. 31. On appeal to this Court, that judgment was vacated and remanded for reconsideration in light of intervening amendments to the federal Food Stamp regulations, specifically 7 C.F.R. 271.3(c)(1)(iii)(e) (which, in the process of amendment, was renumbered 7 C.F.R. 271.3(c)(1)(iii)(f)). 419 U.S. 989 (1974), Jt. App. 43.

On remand, Appellee Hein joined as a defendant in the action Secretary of Agriculture Butz.¹⁰ The three-judge District Court again unanimously held that the challenged State and Federal policies were invalid, this time on both statutory and constitutional grounds. The District Court ordered that the defendants be

permanently enjoined from including in the monthly net income of any person receiving same, any amount received by such person as reimbursement for necessary commuting expenses, pursuant to an Individual Education and Training Plan, unless such amount is deducted from such person's net monthly income in determining such person's adjusted net income.

402 F.Supp. at 408, Butz J.S., pp. 24a-25a. In addition, the District Court ordered that the future prices of Food Stamps for members of the plaintiff class who were then participating in the Food Stamp program be reduced in sufficient amount and for sufficient time to

¹⁰ Appellant in No. 75-1261, hereinafter referred to individually as "the Secretary."

compensate those recipients for Food Stamp benefits wrongfully denied in the past. All Appellants have appealed from the first order; the State Appellants also have appealed from the second order on Eleventh Amendment grounds.

As will be noted in subsequent portions of this brief, many of the arguments made in this Court by the Appellants are based on mischaracterizations both of the issues in this case and of the decision by the District Court. At this point, Appellee will discuss one such mischaracterization which pervades much of the briefing by the Appellants.

Throughout their briefs, the Appellants assert that the \$44-per-month allowance that caused Appellee Hein's food stamp assistance to be reduced was freely divertable by Appellee Hein to non-travel, non-educational expenses such as food. This assertion is based on the further assertion by the State Appellants—never made in any of the District Court proceedings—that Appellee Hein's allowance was received under selected portions of Page XIII-8-5 of the Iowa Department of Social Services Manual *Employees' Manual*¹¹ and Section 58.4(249C) of the 1973 Iowa Department Rules¹² which provided, at the time this case was originally submitted, that "[c]lients enrolled in a full-time training program shall be entitled to a full monthly TRE ['training related expense allowance'] of \$44.00." For a number of reasons, however, the Appellants' characterization of the allowances involved in this case is improper.

First, it was *stipulated* in the District Court that the \$44.00 monthly allowance received by Appellee Hein was for commuting that was *necessary* to her

¹¹ See App. A, p. 11a, *infra*. This Page was incorrectly numbered XIII-8-4 in the State Appellants' Jurisdictional Statement, p. 6a.

¹² See State Appellants' Brief, p. 6a.

participation in her Individual Education and Training Plan, and that she was in fact doing that necessary commuting. Jt. App. 24, ¶¶ 6, 12; *see also*, Jt. App. 29, ¶ 2. On the basis of these stipulations and the other evidence before it,¹³ the District Court properly found that Appellee Hein's allowance was designed and used for transportation that was *necessary* to her government-approved education and training, and was not available for family food purchases.¹⁴ 402 F.Supp. at 401, 405, Butz J.S., pp. 4a-5a, 13a-15a; 371 F.Supp. at 1092-94, Jt. App. 32-35. These findings were never disputed by any of the Appellants in the District Court, despite ample opportunity to do so by means of motions for new trial after the District Court's orders of March 4, 1974, and October 10, 1975, or by presenting evidence following this Court's vacation and remand of the first District Court decision. Indeed, both the State Appellants and the Secretary consistently referred to the allowance in terms similar to the District Court's in their briefing below.¹⁵ In short, however one might have interpreted the "full-time" trainee provisions of *Employees' Manual* XIII-8-5, Appellee Hein's \$44-per-month allowance was for

¹³The other evidence included Affidavits, uncontroverted by the Appellants in their resistances to Appellees' Motion for Summary Judgment on Remand, which stated, *inter alia*, that the \$44.00 allowance was "reimbursement for necessary commuting" under Appellee's Individual Education and Training Plan. *See, e.g.*, Affidavit filed Oct. 19, 1973, App. B, p. 1b-2b, *infra*, ¶¶ 5, 8.

¹⁴Quite apart from the stipulation, this would have been the only sensible conclusion in light of the distance between Muscatine and Davenport.

¹⁵*See, e.g.*, State Defendants' Memorandum Brief in Support of Motion to Dismiss and Motion for Summary Judgment, filed Jan. 23, 1974, at 1 ("the maximum allowable flat grant of \$44 for transportation in connection with her training"); Federal Defendant's Motion for Summary Judgment, filed April 1, 1975, at 2 ("transportation allowance received to defray travel costs incurred in connection with training at a hospital some distance from her home").

necessary transportation under her Individual Education and Training Plan.¹⁶

Second, the District Court's orders of March 4, 1974, and October 10, 1975, applied not only to Appellee Hein, but also to a class of persons defined narrowly as those who received allowances *for necessary commuting expenses*, pursuant to an Individual Education and Training Plan. 402 F.Supp. at 408, Butz J.S., p. 25a. None of the Appellants complained of this definition of the represented class at any time during this litigation. And quite apart from the stipulation of facts referred to above, it is clear that there were persons in the class as defined by the District Court, at least by virtue of the portion of the state regulations governing Individual Education and Training plan allowances not quoted by the Appellants in the bodies of their briefs. At the time of submission to the District Court, Page XIII-8-5 of the Iowa Department of Social Services *Employees' Manual* provided in pertinent part as follows:

Individual Education and Training Plan clients attending institutional training facilities are entitled to a training related expense allowance. *Clients involved in part-time training plans receive 10¢/mile for those miles traveled between home, child care facility and training facility.* The total monthly allowance however cannot exceed \$44.00. Clients enrolled in full-time training programs are entitled to a full monthly TRE of \$44.00

See App. A, p. 11a, infra. Thus, persons engaged in "part-time training plans" were within the class defined by the District Court; and there can be no argument that their "training related expense allowances" were

¹⁶No evidence was introduced in the District Court as to whether Appellee Hein herself was participating in a full-time Plan.

for anything but necessary travel under Individual Education and Training Plans.¹⁷

As indicated above, the District Court's Order of October 10, 1975, by its terms was carefully restricted to allowances received for necessary commuting under Individual Education and Training Plans—i.e., allowances that could not be diverted to other expenses such as food. It is that Order, and not some imaginary broader order, from which the Appellants have appealed, and there is simply no reason for this Court to consider any broader issues that might be raised by such an order. For these reasons, most of the remainder of this brief will deal with this case as it was presented to and decided by the District Court. However, since the Appellants have devoted so much of their attention to the broader hypothetical decision that they apparently would have this Court review, Part III of the Appellee Hein's Argument (pp. 35-40, *infra*) will show that even under the Appellants' characterization of the training-related allowances received by the plaintiff class, the Appellants' policies would be statutorily and constitutionally invalid.

SUMMARY OF ARGUMENT

1. Under the District Court's appropriately narrow decision, the monthly allowances received by members of the plaintiff class were reimbursement for necessary travel in connection with their participation in Individual Education and Training Plans, and did not increase their ability to purchase food for their families.

¹⁷With regard to persons involved in part-time Individual Education and Training plans, the present version of Item XIII-8-5 is identical to the one quoted above, except that the payment is now 15¢/mile, with a maximum of \$45 per month. See App. A, p. 9a, *infra*.

However, the policy of the Appellants that is challenged in this action *reduced* Food Stamp assistance solely on the basis of such allowances, and was therefore contrary to the primary purpose of the Food Stamp Act—which is to *increase* the food purchasing power of low-income households to enable them to obtain a nutritionally adequate diet.

2. The Food Stamp Act also expresses a Congressional intent that participation by members of eligible households in education and training programs should not be discouraged through denial of Food Stamp benefits. Moreover, the provisions of Title XX of the Social Security Act under which Individual Education and Training Plans are authorized and funded are designed specifically to encourage public assistance recipients to obtain education and training toward self-sufficiency. The Appellants' reduction of Food Stamp benefits on the basis of an allowance for travel that is necessary to participation in an Individual Education and Training Plan *discourages* such participation, and thus violates the Food Stamp Act and work at cross-purposes with Title XX.

3. The Food Stamp Act does not require that all "public assistance income" of whatever kind be included in the "income" figure that determines Food Stamp purchase prices. Under the Food Stamp Act, this "income" figure must relate to food purchasing power; since the government allowances for necessary travel in connection with Individual Education and Training Plans that are involved in this case are not available for food purchases and therefore do not increase food purchasing power, they are not properly included in Food Stamp "income."

4. The Appellants' reduction of Food Stamp assistance to members of the plaintiff class cannot be justified by the fact that the District Court's decision

may result in members of the plaintiff class being better off than persons who are incurring similar education-related travel expenses, but who are not receiving government reimbursement therefor. Quite apart from whether such persons actually exist, any "discrimination" that may result is attributable solely to their lack of government *educational* assistance, and not to differences in Food Stamp assistance. Moreover, to remove this "discrimination" in favor of recipients of government allowances for necessary educational travel by reducing their Food Stamp benefits is to vitiate the incentives toward education and training that the allowances are specifically designed to create—in violation of the Food Stamp Act's own preference for education and training and the intent of Congress in providing for such grants under Title XX.

5. The statutory and constitutional problems inherent in the policies challenged in this case are not cured by federal and state regulations permitting the deduction from Food Stamp "income" of 10% of a training allowance, primarily because this deduction still leaves all but an insignificant fraction of an allowance for necessary educational travel included in Food Stamp "income." Moreover, the use of a standardized 10% deduction cannot be justified in this case by the invocation of "administrative convenience," since the only allowances that are covered by the District Court's carefully tailored order are reimbursement for *necessary* travel under Individual Education and Training Plans.

6. Although only the statutory issues need be reached in this case, the Appellants' Food Stamp "income" policies are also violative of Equal Protection and Due Process as applied to the allowances for necessary educational travel involved herein. First, the Appellants' policies discriminate against those who are receiving allowances for necessary travel under Individual Education and Training Plans, in favor of those who

are not participating in such Plans and therefore are not receiving such allowances; while both groups have the same food purchasing power, the latter receive higher Food Stamp benefits. Moreover, the Appellants' regulations irrationally distinguish between educational travel expenses and educational child care expenses in determining Food Stamp purchase prices.

7. The policies challenged in this case also create a conclusive presumption that an allowance for necessary travel in connection with an Individual Education and Training Plan increases food purchasing power, without any opportunity for the recipient to show that this presumption is not true. Especially since this presumption is essentially always false with regard to the allowances covered by the District Court's Order, it is a violation of Due Process.

8. While the government educational allowances involved in this case were specifically for necessary travel in connection with Individual Education and Training Plans, the Appellants' Food Stamp "income" policies would be invalid even as applied to the hypothetically general "training related expense allowances" to which the Appellants devote much of their briefing. The only rational basis for giving such a general allowance of, e.g., \$50 to a participant in an Individual Education and Training Plan is an administrative judgment that he or she generally *will* have to incur additional expenses of that magnitude in order to continue participating in that Plan. But the Appellants' Food Stamp "income" regulations presume precisely the opposite, i.e., that the Plan participant will have essentially no such additional expense attributable to education. The result is that in all but the most extraordinary cases, application of the Appellants' Food Stamp regulations would reduce the recipient's food purchasing power in violation of the Food Stamp Act's

primary purpose. At the same time, such a reduction would provide disincentives to participation in Individual Education and Training Plans, which would be contrary to the very purpose of granting the allowances under Title XX. In any event, contrary to the apparent assertion of the Appellants, these issues relative to general "training related expense allowances" are not presented by this case.

9. Finally, the Eleventh Amendment problem raised by the State Appellants is totally nonmeritorious. At most, the District Court's Order will result in the State's incurring administrative costs that are purely ancillary to a valid judicial decree. This kind of cost, which results from essentially any prospective judicial relief granted to a public assistance recipient, does not amount to damages against the State, and is the very kind of cost which a State agrees to bear under the terms of the Food Stamp Act.

ARGUMENT

I.

THE APPELLANTS' POLICY OF REDUCING FOOD STAMP BENEFITS SOLELY ON THE BASIS OF A GOVERNMENT ALLOWANCE FOR NECESSARY TRAVEL IN CONNECTION WITH A GOVERNMENT SPONSORED TRAINING PLAN VIOLATES THE FEDERAL FOOD STAMP ACT AND WORKS AT CROSS-PURPOSES WITH THE SOCIAL SECURITY ACT.

A. The Appellants' Policies Effectively Reduce The Food Purchasing Power Of Recipients Participating In Individual Education And Training Plans.

The District Court in this case held that the Appellants' reduction of Appellee Hein's family's Food Stamp benefits solely on the basis that she was receiving a government allowance for necessary travel expenses in connection with her participation in a government sponsored "Individual Education and Training Plan" violated the Food Stamp Act of 1964, 7 U.S.C. §§2011, *et seq.* (1974). 402 F.Supp. at 404-405, Butz J.S., pp. 11a-15a.¹⁸ This holding was based in part on the District Court's conclusion that one of the central purposes of the Food Stamp Act was to enable households with low food-purchasing power to obtain a nutritionally adequate diet. 402 F.Supp. at

¹⁸For similar holdings in related factual contexts, see *Turchin v. Butz*, 405 F.Supp. 1263 (D. Minn. 1976); *Harrelson v. Butz*, Civ. No. 76-0021-R (E.D. Va., June 7, 1976); *Thomas v. Butz*, Civ. No. 73-336 PHX CAM (D. Ariz., January 20, 1976). But see *Chek v. Butz*, Civ. No. 75-0559-CBR (N.D. Calif. June 4, 1975).

404-405, Butz J.S., pp. 12a-13a. That conclusion is not challenged by the Appellants, and is undisputable in light of the language and the legislative history of the Act. Section 2 of the Act, 7 U.S.C. §2011, states a Congressional finding that "the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households," and provides that a central purpose of the Act is to "raise levels of nutrition among low-income households" through a program "which will permit [such households] to purchase a nutritionally adequate diet" Moreover, 7 U.S.C. §2014(a) provides that participation in the Food Stamp Program "shall be limited to those households whose income and other resources are determined to be substantial limiting factors in permitting them to purchase a nutritionally adequate diet"; and 7 U.S.C. §2013(a) requires that the Food Stamp Program be one "under which . . . eligible households . . . shall be provided with an opportunity to obtain a nutritionally adequate diet" These provisions are especially significant in light of the 1971 amendments to the Food Stamp Act, which altered the description in §2013(a) of the ultimate benefit that was to be provided from "an opportunity *more nearly* to obtain a nutritionally adequate diet" (emphasis added) to simply "an opportunity to obtain a nutritionally adequate diet". See H.R. Rep. No. 91-1402, House Committee on Agriculture, 1970 Code Cong. & Adm. News 6025.¹⁹

¹⁹The clear import of these statutory provisions is fully supported by other legislative history as well. See, e.g., *id.* at 6027; Hearings on S. 6, S. 339, S. 1608, S. 1864, and S. 2014 Before the Senate Committee on Agriculture and Forestry, 91st Cong., 1st Sess., p. 389 (1969) (Testimony of Secretary Hardin); *Rodway v. U.S. Dept. of Agriculture*, 514 F.2d 809, 818-820 (D.C. Cir. 1975).

As applied to the members of the plaintiff class defined by the District Court, the state and federal regulations challenged in this action are directly contrary to the above-described purpose of the Food Stamp Act. The monthly allowances received by Appellee and the members of the class defined in the District Court's Order of October 10, 1975, were for necessary commuting in connection with their government sponsored and approved Individual Education and Training Plans, and were plainly not available to meet ordinary household needs such as food. Thus, those allowances did *not* increase their recipients' ability to purchase adequate diets for themselves and their children; in particular, Appellee Hein's household was in no less need of food stamp assistance after than before the receipt of the allowance for her necessary educational travel. The Appellants' reduction of Appellee Hein's Food Stamp benefits therefore substantially *decreased* her family's food purchasing power, and was directly contrary to the Act's central purpose to *increase* the food purchasing power of low-income households to enable them to obtain nutritionally adequate diets.²⁰

B. The Appellants' Policies Penalize And Discourage Participation In Government Funded And Sponsored Education And Training Programs.

The District Court also found that the federal and state regulations challenged in this action violated a

²⁰The above-described violation of the purposes of the Food Stamp Act is of course a serious one, despite the fact that the increase in the recipients' Food Stamp purchase price may be "only" \$12.00. Quite apart from the fact that the actual impact of such a price increase on the ability of a household to purchase food may be considerably greater than \$12, see Statement of the Case, *supra*, even that amount constituted a considerable portion of Appellee Hein's total Food Stamp allotment of \$94 per month.

second purpose of the Food Stamp Act—the encouragement (or non-discouragement) of education and training. 402 F.Supp. at 405, Butz J.S., p. 15a. Section 5(c) of the Act, 7 U.S.C. §2014(c), provides that a household is not eligible for Food Stamp Assistance if an able-bodied member has failed to register for or accept employment, unless that household member is a caretaker of dependents or a “*bona fide student in any accredited school or training program*, or employed and working at least 30 hours per week” (Emphasis added). As the District Court concluded, this provision demonstrates that “Congress sought to encourage food stamp recipients to secure education and training,” 402 F.Supp. at 405, Butz J.S., p. 15a. But the federal and state regulations challenged in this action undeniably *discouraged* participation in state sponsored training programs by substantially reducing recipients’ food stamp assistance solely on the basis of allowances for necessary educational travel that made it possible for them to participate in such programs. This was a clear violation of 7 U.S.C. §2014(c)’s indication that education and training is not to be discouraged by the denial of food stamp benefits.

It should be noted here that Congress’ policy of encouraging poor persons to obtain education and training so that they may become self-sufficient is not expressed only in 7 U.S.C. §2014(c). As the Appellants themselves have indicated, the Individual Education and Training Plan under which Plaintiff has received her monthly allowance for necessary educational travel expenses has been funded in part by federal funds made available to the states under Titles IV and XX of the Social Security Act. At the time this suit was commenced, the Iowa Individual Education and Training program was funded in part with federal funds pursuant to 42 U.S.C. §602(a)(14) (now repealed),

which required all states participating in the AFDC program to develop programs to assist members of AFDC families to “attain or retain capability for the maximum self-support and personal independence.” 42 U.S.C. §§602(a)(14), 606(d) (repealed, Pub.L. 93-647, §§3(a)(2), 3(a)(5), 88 Stat. 2348 (1975)). These provisions were part of a series of 1968 amendments to the Social Security Act that were intended by Congress to reduce the number of persons on AFDC “by restoring more families to employment and self-reliance.” S.R. No. 744, 90th Cong., 1st Sess., 1967 U.S. Code Cong. & Adm. News 2834, 2982.

Since the commencement of this action, the essential provisions and purposes of 42 U.S.C. §602(a)(14) have been incorporated into Title XX of the Social Security Act, 42 U.S.C. §§1397, *et seq.*, and the State’s Individual Education and Training program now receives federal funding under that Title.²¹ The stated purpose of Title XX is to encourage each state to “furnish services directed at” five enumerated goals, one of which is “achieving or maintaining economic self-support to prevent, reduce or eliminate dependency.” 42 U.S.C. §1397(1); *see also* 42 U.S.C. §1397(2). Among the types of services listed in the statute are “training and related services.” 42 U.S.C. §1397a(a)(1). Each state plan must provide at least one service directed at the goal of achieving self-sufficiency, and a substantial portion of services must be directed at persons who are recipients of or eligible for benefits under Titles IV-A (AFDC), XVI (Supplemental Security Income), and XIX (Medical Assistance) of the Social Security Act. 42 U.S.C. §1397a(a)(4).

²¹State of Iowa *Title XX Plan*, p. 28 (App. A, p. 13a, *infra*). The federal government contributes 75% of the cost of providing such services under Title XX. 42 U.S.C. §1397a(a)(1).

Thus, the Food Stamp Act's provisions evidencing Congressional intent to encourage education and training toward self-support, 7 U.S.C. §2014(c), are clearly supported by the very federal statutes under which the members of the plaintiff class receive the allowances for necessary educational commuting that are the subject of this case.²² Plainly, the effect of the Appellants' food stamp policies is to penalize the plaintiff class for, or deter them from, participating in the very education and training programs that were funded by Congress as a necessary part of its program to encourage self-sufficiency among welfare recipients and thus to reduce the government's long range public assistance burden. In short, the Appellants' policies work at cross-purposes with Title XX of the Social Security Act, in violation of that Act and the Food Stamp Act itself, 7 U.S.C. §2014(c).

This inconsistency of the Appellants' policies with the encouragement of education and training toward self-sufficiency, and thus with the Food Stamp Act and Social Security Act, was relied upon heavily by the court in *Turchin v. Butz*, 405 F.Supp. 1263 (D. Minn. 1976), which invalidated those policies on statutory grounds. In other contexts as well, courts have recognized that separate governmental assistance programs that are designed to solve different problems or meet different needs should operate in concert with each other, rather than at cross-purposes. Thus, for example, in *Brown v. Bates*, 363 F.Supp. 897 (N.D. Ohio 1973), the court invalidated a state policy that reduced AFDC assistance solely on the basis of the

²²Iowa's *Title XX Plan*, p. 28, states that the purpose of the Individual Education and Training Plan Program is to provide to AFDC recipients "opportunities for training or increasing job skills involving vocational classroom training, job placement, and other services to facilitate economic self-support." App. A, p. 13a, *infra*.

receipt of Work-Study benefits that were designed to facilitate education and training. *See also Elam v. Hanson*, 384 F.Supp. 549 (N.D. Ohio 1974) (invalidating reduction of AFDC assistance solely on basis of receipt of OASDI educational benefits); *Hamilton v. Butz*, 520 F.2d 709 (9th Cir. 1975) (invalidating reduction of federal Food Stamp assistance on the basis of the receipt of Federal Settlement Act funds in exchange for Native Alaskan land claims). In the instant case, avoidance of conflict between federal programs is made especially appropriate by 7 U.S.C. §2014(c)'s explicit recognition of the undesirability of discouraging education and training, and by Title XX's requirement that state plans describe

how the provision of services under [Title XX] will be coordinated with the plan of the state approved under Part A of subchapter IV [AFDC], . . . and other programs for the provision of related human services within the state, including the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population

42 U.S.C. §1397c(2)(H).

This action is closely analogous to *Shea v. Vialpando*, 416 U.S. 251 (1974), in which this Court held that Colorado's policy of allowing only a standard deduction for employment-related expenses in calculating an applicant's income for purposes of determining eligibility for AFDC violated 42 U.S.C. §607(a)(7), which required states to "take into consideration . . . any expenses reasonably attributable to the earning of . . . income." In so holding, this Court considered both the statutory language and the intent of Congress not to provide disincentives for employment. In the instant case, there is of course no language in the Food

Stamp Act explicitly requiring that all education-related expenses be deducted from "income" in determining food stamp eligibility or purchase prices. However, the District Court's order in this case does not require the deduction of all educational *expenses*. Rather, that order requires only that the Appellants not include ultimately in "income" *allowances* that are *received* for "necessary commuting expenses, pursuant to an Individual Education and Training Plan." 402 F.Supp. at 408; Butz J.S., pp. 24a-25a. (Emphasis added). Thus, the District Court's Order is carefully tailored to prevent precisely the disincentives to education which result from the Appellants' policies—and which are clearly contrary to the Congressional intent expressed in 7 U.S.C. §2014(c) and in Title XX of the Social Security Act.

As noted earlier in this brief,²³ the impact on a recipient within the plaintiff class of even a \$12-per-month reduction in food stamp assistance is substantial. The three-judge court in this case unanimously recognized that under the Appellants' policies, members of the plaintiff class "are . . . placed in the unenviable position of being forced to choose between foregoing participation in a training program or [sic] attempting to stretch already meager resources a bit further in an attempt to obtain adequate nutrition." 371 F.Supp. at 1093, Jt. App. 32-33. As shown above, the position of the members of the plaintiff class is not only unenviable—it is also inconsistent with the Food Stamp Act and the Social Security Act.

²³See footnote 20, *supra*.

C. The Appellants' Statutory Arguments Are Without Merit.

The Secretary defends the policies at issue in this case in part by asserting that Congress intended that Food Stamp benefits be determined by a household's total income and resources, of whatever kind and from whatever source, and that "public assistance payments" of all kinds should be included in Food Stamp "income." See Butz Brief, pp. 19-22. Since government allowances for travel necessitated by participation in an Individual Education and Training Program are "public assistance payments," the argument goes, they are properly included in Food Stamp "income." The primary flaw in this argument is that it ignores the undisputable evidence in the Food Stamp Act's language and history that the "income" upon which Food Stamp benefits are based must relate to the household's food purchasing power. Thus, for example, 7 U.S.C. §2014(a) limits food stamp assistance to "those households whose *income and other resources* are determined to be substantial limiting factors *in permitting them to purchase a nutritionally adequate diet*" (emphasis added), and 7 U.S.C. §2013(a) requires that the Food Stamp Program be one under which "eligible households . . . shall be provided with an opportunity to obtain a nutritionally adequate diet" See also 7 U.S.C. §2011.

Of course, the fact that Food Stamp "income" must relate to food purchasing power does not prohibit the inclusion of general public assistance payments such as AFDC in "income": Since AFDC payments are designed and available for ordinary household expenses, including shelter, clothing, *and food*, such payments do affect an AFDC family's food purchasing power in the same way as equivalent amounts of earned income, even

though not all of the AFDC allowance normally will be spent on food purchases. And it is administratively appropriate for the Secretary to utilize the total AFDC grant, rather than the portion thereof specifically allocated to food needs, as an initial measure of income, since it is food purchasing *power*, and not actual food *purchases*, to which food stamp "income" must relate.²⁴

However, the allowance for necessary travel in connection with an Individual Education and Training Plan that is at issue in this case is a specialized one that is not available for diversion to food purchases or other ordinary household expenses. Nor does it "free up" any portion of the basic AFDC grant for diversion to food purchases, since it is designed and used for necessary educational travel that is not provided for in the AFDC grant.²⁵ In this regard, it is clear that the statements that the Secretary quotes from Congressional reports and hearings to support his assertion that all "public assistance payments" should be included in food stamp "income" (Butz Brief, pp. 20-21) were made with reference to general public assistance income, such as AFDC, that is analogous to earned income—i.e., income that is available for ordinary household needs such as food. Certainly, those statements do not contradict the Congressional intent that "income" should relate to food purchasing power that is expressed throughout the

²⁴This is supported by 7 U.S.C. §2016(b)'s provision that the price charged for a Food Stamp coupon allotment should not exceed 30% of a household's income.

²⁵If only for this reason, the Secretary's reliance on *Compton v. Tennessee Dept. of Public Welfare*, 532 F.2d 561 (6th Cir. 1975) (Butz Brief, pp. 24-25), is misplaced, since the decision in that case was based on a conclusion that additional housing allowances would "free up" income normally expended for shelter for other expenses, including food purchases. *Ibid.* at 565. In any event, notwithstanding this distinction, *Compton* is of dubious validity, see *Anderson v. Butz*, 37 Ad.L.2d 852 (E.D. Calif. 1975).

Food Stamp Act. Unlike an AFDC grant, the special allowances at issue in this case plainly do not affect food purchasing power, and using them as the basis for reductions in Food Stamp assistance is therefore violative of the language and basic purposes of the Food Stamp Act.²⁶

Contrary to the Secretary's assertion (Butz Brief, pp. 16-17, 26-28), nothing in the preceding analysis or in the District Court's decision in this case implies that the Appellants must deduct all actual non-food expenses in calculating net Food Stamp "income." The District Court's Order of October 10, 1975, was carefully drawn to require only that "*amounts received* as reimbursement for *necessary* commuting expenses, pursuant to an Individual Education and Training Plan" not be ultimately included in "income" so as to reduce food stamp benefits. 402 F.Supp. at 408, Butz J.S., pp. 24a-25a. Thus, the District Court's decision focused specifically on non-inclusion of *allowances*, and referred to the *deduction* of such allowances only to permit the Appellants an alternative administrative method of achieving the same basic result: the non-inclusion of allowances designated for necessary educational travel under government sponsored training programs in the ultimate "income" figure that determines the level of food stamp assistance.

Moreover, even if the District Court's decision could be read to require the deduction from Food Stamp "income" of *expenses* attributable to necessary travel in connection with Individual Education and Training Plans, it would not imply that all non-food expenses

²⁶Even more plainly, the Secretary's argument about the definition of Food Stamp "income" fails to respond to the violation of the Food Stamp Act's (and Social Security Act's) purpose not to discourage education and training toward self-sufficiency.

would have to be similarly deducted. As noted above, there is no dispute in this case that Food Stamp "income" may include funds that are available for food and other ordinary household expenses, whether or not they are actually expended for food; clearly, it would not make sense to allow deductions for all actual non-food expenses, since this would enable all recipients to obtain the maximum Food Stamp "bonus" by simply spending all of their resources on non-food items. But in this regard, expenses for travel that was necessary to participation in an Individual Education and Training Plan would be special, for two related reasons. First, the recipient has no real choice not to incur such expenses, at least if she wishes to continue participation in her Plan; thus, the funds to meet those expenses are not available for food purchases or other ordinary household expenses, and do not affect food purchasing power. And second, such travel expenses are necessary to continued participation in an educational activity that Congress intended to encourage through 7 U.S.C. §2014(c) and Title XX of the Social Security Act.

The Secretary also attempts to justify the reduction of Food Stamp assistance to households receiving government allowances for necessary educational travel on the basis that it avoids discriminating against food stamp recipients who have similar educational travel expenses, but who receive no offsetting government allowance. Butz Brief, pp. 23-24. This proffered justification is invalid for at least two reasons. First, the Secretary's argument asks this Court to assume that there are substantial numbers of recipients in Appellee Hein's financial situation who are able to incur educational travel expenses of \$44 per month and still feed, clothe, and house their families. But if \$44 per month is subtracted from the bare subsistence income

that is represented by an AFDC grant and normal Food Stamp assistance, there simply will not be enough left for subsistence—with the result that a recipient who is not receiving an additional allowance for necessary educational travel will not be able to afford to engage in that travel, and therefore will not be able to continue his or her education. Indeed, this inability of AFDC households to absorb the costs of educational travel is the only rational justification for granting members of such households allowances for educational travel in the first place.

Even more fundamentally, the Secretary's argument proves too much. It is of course tautologically true that a person who receives an allowance for necessary educational travel will be better off than another who has the same educational travel expenses but no allowance. But the "discrimination" against the latter is wholly attributable, not to food stamp policy, but to the fact that the former has received a governmental *educational* benefit that has not been extended to the latter. In essence, the Secretary's argument is that his food stamp policies are *designed* to vitiate the effects of governmental education benefits; but this is a purpose that is directly contrary to the Congressional intent that is expressed in the Food Stamp Act, 7 U.S.C. §2014(c), and in the federal statutes under which the educational benefits have been extended, 42 U.S.C. §1397, *et seq.*²⁷

Both the Secretary and the State Appellants point to 7 C.F.R. 271.3(c)(1)(iii)(a), under which 10% of any

²⁷Insofar as the Secretary is concerned about recipients with educational expenses who were not receiving government educational benefits, he could of course allow a deduction for a reasonable amount of such benefits, just as he allows a similar deduction for education-related child care expenses, 7 C.F.R. 271.3(c)(1)(iii)(d). But that is an issue which is not involved in this case.

"training allowance" (up to \$30) may be deducted from Food Stamp "income", as sufficient to meet the statutory and constitutional objections raised by the Appellees. Butz Brief, p. 29; State Appellants' Brief, pp. 6-7. However, this regulation is patently inadequate to meet those objections. First, as applied to Appellee Hein, 271.3(c)(1)(iii)(a) provided a deduction of only \$4.40 per month—leaving her with \$39.60 of her original \$44 grant still included in "income."²⁸ Since this \$39.60 was for necessary educational commuting, its receipt should not have resulted in reduction of Appellee Hein's food stamp assistance. In short, the 10% deduction under 271.3(c)(1)(iii)(a) deals with only an insignificant portion of the education travel allowance, and hardly solves the basic difficulties with the Appellants' policies under the Food Stamp Act and Title XX. Moreover, it should be noted that the 10% deduction provision is inherently an irrational device for adjusting "income" to reflect food purchasing power, since it provides the largest income deduction to those who have received the largest increase in actual income, and thus the greatest food stamp benefits precisely to those who need it least. Indeed, with regard to the hypothetical Food Stamp recipients with whom the Secretary purports to be especially concerned—i.e., those who have educational expenses without an offsetting government allowance—7 C.F.R. 271.3(c)(1)(iii)(a) provides *no* relief.

²⁸Contrary to the assertions of the Secretary (Butz Brief at 6-7, footnotes 4, 8), the record in this case shows that the State Appellants were giving Appellee Hein the standardized deduction of 10% of her training allowance—calculated only on the basis of the \$44 allowance for necessary commuting under her Individual Education and Training Plan. See, e.g., Plaintiff's Exhibit #2, p. 1 (App. B, p. 1b, *infra*). Reasonably interpreted, the District Court's Order of October 10, 1975, would not require the Appellants to *both* exclude from "income" an allowance for necessary travel under an Individual Education and Training Plan *and* grant an additional 10% deduction; only the former would be required.

In connection with 7 C.F.R. 271.3(c)(1)(iii)(a), the Appellants also raise as a justification for their policies the shibboleth of "administrative convenience." However, especially given its appropriate narrowness, the District Court's Order cannot be seen as imposing any special administrative burdens on the Appellants with regard to determining amounts actually expended on educational travel. Again, Appellee Hein's allowance was conceded to be *for necessary* commuting expenses. Similarly, the class of recipients covered by the District Court's Order was defined to include only those receiving allowances as reimbursement for necessary travel in connection with Individual Education and Training Plans. For example, with regard to recipients on "part-time" Training Plans, the expense allowance itself is calculated on the basis of the distances that the recipient must travel in order to participate in his or her Plan, so that the necessary "individual" determinations will already have been made. For those who are covered by the District Court's Order, the Appellants' administrative burdens are considerably less onerous with regard to their necessary travel allowances than with regard to education-related child care expenses. See 7 C.F.R. 271.3(c)(1)(iii)(d). And to the extent that some recipients may receive training related expense allowances that are not for necessary educational travel, they are not covered by the District Court's Order.

The State Appellants also argue that the District Court's decision could somehow "strike a death blow" to Iowa's Work and Training Program. State Appellants' Brief, p. 8. But it is difficult to see why this is so, since the District Court's order does not require payment of any additional funds for Individual Education and Training Plans, and has no other impact on the program under which such plans are funded. Insofar as the State Appellants' argument is that the District Court's Order

will be burdensome because it will require individual accounting for travel expenses, it fails both because the District Court's Order does *not* require such accounting, see text *supra*, and because that Order requires administrative action, if at all, only with regard to the Food Stamp program. Moreover, the State Appellants' argument totally ignores the *negative* effects of the Food Stamp "income" policies that are challenged in this action on government education and training programs for members of low-income families (see Argument I(B), *supra*).

II.

THE DEFENDANTS' POLICIES ALSO VIOLATE THE EQUAL PROTECTION AND DUE PROCESS GUARANTEES OF THE FIFTH AND FOURTEENTH AMENDMENTS.

A. Equal Protection

By themselves, the statutory issues discussed above require affirmance of the District Court's judgment. However, the District Court also held in the alternative that the Appellants' policy of reducing food stamp benefits on the basis of a government allowance for necessary educational commuting violated Equal Protection guarantees of the Fifth and Fourteenth Amendments. 402 F.Supp. at 405-407, Butz J.S., pp. 16a. In so doing, the District Court noted two irrational classifications; with regard to both classifications, the members of the plaintiff class were discriminated against. The first discrimination noted by the District Court was between food stamp recipients who received allowances for necessary educational commuting and

those recipients who did not receive such allowances; although both groups were similarly situated in terms of income that was available for food purchases, the former received substantially less food stamp assistance. The second discrimination was between food stamp recipients who received allowances for education-related *travel* and those recipients who received allowances for education-related *child care* expenses; again, both groups were similarly situated in terms of food-purchasing power, but the former received less food stamp assistance because the latter were permitted by the Appellants' regulations to deduct from their food stamp "income" their child care expenses. 402 F.Supp. at 405-406, Butz J.S., p. 16a; see 7 C.F.R. 271.3(c)(1)(iii)(d).

Using "traditional" Equal Protection analysis, see *U.S. Department of Agriculture v. Moreno*, 413 U.S. 528 (1974), the District Court found the classifications described above not to be rationally related to any legitimate governmental interest, and hence unconstitutional. 402 F.Supp. at 406-407, Butz J.S., pp. 16a-19a. This result is so obvious as to require little argument. An allowance that is necessarily utilized for educational commuting expenses can bear no relationship to a recipient's household's need for assistance with regard to food. Equally clearly, babysitting expenses necessitated by education and training of a recipient have no greater negative effect on a recipient's food purchasing power than travel expenses that are necessary to the same education and training.

The justifications suggested by the Appellants for these discriminations, Butz Brief pp. 32-36, State Appellants' Brief, pp. 7-9, have already been answered in this brief in connection with the statutory violations that result from the Appellants' Food Stamp "income" policies (Argument I(c), *supra*). In particular, the Secretary's concentration on a hypothetical class of

Food Stamp recipients who incur educational expenses but who receive no offsetting government training related expense allowance ignores the fact that even if such recipients exist, there remains an irrational discrimination between (1) Food Stamp recipients who receive an allowance for necessary travel in connection with Individual Education and Training Plans and (2) recipients who are not participating in any training program. Moreover, as noted earlier, any discrimination against the Secretary's hypothetical class of recipients is attributable solely to their lack of government *educational* benefits, and has nothing to do with Food Stamp assistance. Finally, the Appellants ignore the second discrimination relied upon by the District Court, namely, the discrimination between education-related travel and education-related child care.²⁹

B. Due Process

The District Court also concluded that the Appellants' policy of reducing food stamp assistance on the basis of a government allowance for necessary educational commuting expenses violated the Due Process guarantees of the Fifth and Fourteenth Amendments. 402 F.Supp. at 407-408, Butz J.S., pp. 19a-22a. In effect, the Appellants' policy presumes, without any opportunity for the recipient to show otherwise, that an allowance for necessary educational travel is freely and totally available for general, non-education expenses

²⁹The State Appellants' apparent suggestion (State Appellants' Brief, p. 7) that Appellee Hein should have moved to Davenport in order to avoid the costs of commuting can only be characterized as incredible. The State Appellants themselves *approved* Appellee Hein's Individual Education and Training Plan, which included the Muscatine-to-Davenport commute, and provided an allowance for the necessary commuting expenses. Moreover, the State Appellants ignore the costs inherent in moving an entire household to a new location.

such as food purchases and thus reduces the recipient's household's need for food stamp assistance. This is precisely the sort of conclusive presumption that this Court recently has invalidated in such cases as *Stanley v. Illinois*, 405 U.S. 645 (1972), and *U.S. Department of Agriculture v. Murry*, 413 U.S. 508 (1973).

Even when conclusive presumptions were such that they might often be correct, this Court has invalidated them, see *U.S. Department of Agriculture v. Murry*, *Stanley v. Illinois*, *supra*. *A fortiori*, a presumption such as the totally irrational one involved in this action must also be invalid: Since the allowances received by Appellee Hein and by the members of the represented class defined by the District Court's Order were reimbursement for travel that was necessary to their continued participation in Individual Education and Training Plans, the conclusive presumption created by the policies involved in this action would essentially always be incorrect. See 402 F.Supp. at 407, Butz J.S., p. 21a.³⁰

This result is not changed by this Court's decision in *Weinberger v. Salfi*, 422 U.S. 749 (1975). Contrary to the apparent implication of the Brief for the Secretary, (pp. 37-38), *Salfi* did not overrule *U.S. Department of Agriculture v. Murry*, *supra*, with regard to statutory or regulatory schemes involving rights to public assistance.

³⁰It would of course be *possible* for a recipient to use his or her educational travel allowance for a given month to purchase food. But this would result in the recipient's not being able to continue participating in his or her Education and Training program—with the result that the allowance would be lost the following month. Moreover, especially in light of the presumption by the Appellants on which the giving of the allowance must be based—i.e., that it is needed for the additional expenses of educational travel—it would be constitutionally invalid to presume *conclusively* that the allowance was not being spent on such travel. Finally, there is no dispute in the record in this case that Appellee Hein in fact did continue her educational commuting under her Individual Education and Training Plan. *Jt. App.* 24.

The result in *Salfi* was based primarily on this Court's conclusion that Congress' restriction of Social Security survivors' benefits to those who had a relationship to a deceased wage earner for at least nine months prior to death was intended only as a definition of the kinds of social risks that Congress wished to insure persons against through the Social Security system. The duration-of-relationship restriction was held to be a rational prophylactic precaution against marriages for the purpose of obtaining benefits, and not intended as a conclusive presumption that any given marriage in fact was a "sham." 95 S.Ct. at 2474-75. This Court was careful to distinguish *Vlandis v. Kline*, 412 U.S. 441 (1973), on the basis that "where Connecticut purported to be concerned with residency, it might not at the same time deny to one seeking to meet its test of residency the opportunity to show factors bearing on that issue." 95 S.Ct. at 2470 (emphasis added).

Plainly, this case falls within the coverage of *Stanley*, *Murry*, and *Vlandis*, rather than the rationale of *Salfi*. As shown in Part I above, Congress has indicated through the language of the Food Stamp Act that the Act's central concern is with the food purchasing power (or, stated somewhat differently, the nutritional needs) of low-income households. 7 U.S.C. §§ 2011, 2013(a), 2014(a). Although the Secretary of Agriculture has the authority to define "income" for purposes of determining food stamp benefits, that authority must be exercised consistently with the purposes of the Act, which plainly relates "income and resources" to food purchasing power. Since Congress clearly has "purported to be concerned with [food purchasing power]," cf. *Vlandis v. Kline*, *supra*, the Secretary's regulations may not arbitrarily define as "income" allowances that do not have any apparent effect on food-purchasing power and at the same time deny to recipients of such

allowances any opportunity to show that their needs for food assistance are unaffected by the allowances.³¹

III.

EVEN AS APPLIED TO GENERAL EDUCATIONAL EXPENSE ALLOWANCES THAT WERE NOT FOR NECESSARY COMMUTING EXPENSES, THE CHALLENGED FOOD STAMP "INCOME" – DETERMINATION POLICIES WOULD BE INVALID.

The preceding sections of this brief have focused on government allowances for necessary travel in connection with participation in Individual Education and Training Plans. As shown in the Statement of the Case, *supra*, this is the proper focus in this case: Appellee Hein's allowance was stipulated to be for necessary commuting in connection with her Individual Education and Training Plan, and the members of the class defined by the District Court receive the same kind of allowance. However, since the Appellants have concentrated much of their briefing on "training related expense allowances" which are not designated for specific uses and which in fact may not be wholly necessary for education-related expenses in individual cases, Appellee will demonstrate below that even with regard to such an allowance, the Appellants' policy of reducing food stamp assistance by including the allowance in "income" would be statutorily and constitutionally invalid.

³¹*Lavine v. Milne*, 96 S.Ct. 1010 (1976), relied upon by the State Appellants (State Appellants' Brief, p. 11), is even more clearly inapplicable, since it dealt with a *rebuttable* presumption.

First, under the Food Stamp Act, even a non-individualized and possibly non-necessary training related expense allowance could not properly be included totally and conclusively in "income" because it would not have the same effect on food purchasing power as general income such as AFDC or earned income. For example, whether or not every "full-time" participant in an Individual Education and Training Plan needs \$60 per month for Plan-related expenses, the Appellants' grant of that sum rationally must reflect an administrative judgment, or presumption, that as a general matter participants in full-time Individual Education and Training Plans will have additional expenses of that magnitude and that it is not worth the administrative cost to determine on an individual basis which recipients have fewer expenses. Certainly there is no reason to suppose that a "training related expense allowance" received under an Individual Education and Training Plan is designed to be used to meet food and other ordinary household expenses; indeed, if it were designed for that purpose, it clearly would be contrary to the intent and language of Title XX of the Social Security Act, which provides in pertinent part that "[n]o payment may be made under this section with respect to that expenditure under Section 602 or 622 of this title." 42 U.S.C. §1397a(a)(8).

In short, the State Appellants have made an administrative judgment that for participants in full-time Individual Education and Training Plans, a monthly training related expense allowance of \$60 is necessary and proper to meet additional expenses attributable to training (and therefore does not increase the income that is available for food purchases). The Appellants' food stamp "income" policies are not simply inconsistent with this administrative judgment—they in fact assume the *most* contrary possible fact:

that *all* of even a generalized "training related expense allowance" is available for ordinary household expenses such as food. In essence, the Appellants' policies would treat a general "training related expense allowance" precisely like additional earned income or an increase in AFDC assistance (which would be available for general household expenses, including food). But this is contrary both to common sense and to the very basis for granting such an allowance in the first place. Moreover, if a recipient were to divert all of such an allowance to non-educational expenses, she would in all but the most extraordinary circumstances not be able to continue attending her training program—and hence would be ineligible for either the training expense allowance *or* the basic Individual Education and Training Plan during the following month.

In addition to violating the basic intent of Congress that Food Stamp Act "income" should reflect food purchasing power, the Appellants' policies, even as applied to a general "training related expense allowance," would violate the purpose of the Food Stamp Act and the Social Security Act of encouraging poor persons to obtain education and training toward self-sufficiency. As noted above, the granting of a general "training related expense allowance" of \$60 to full-time trainees under Individual Education and Training Plans rationally must reflect an administrative judgment that most such trainees will have to bear costs of that magnitude in connection with their Plans. In automatically reducing the food stamp assistance of all such trainees by irrationally presuming that *none* of them needed *any* of the \$60 for training-related expenses, the Appellants' policies would guarantee that a large number of food stamp recipients who were approved for Individual Education and Training Plans would be discouraged from participating in such Plans

because their ability to provide adequate nutrition for their families would be reduced if they did participate. Obviously, a training related expense allowance is designed to facilitate and encourage participation in Individual Education and Training Plans by compensating trainees for the additional expenses connected with their training activities; equally obviously, the Appellants' food stamp policies would serve to *discourage* such participation by effectively reducing that compensation, in violation of 7 U.S.C. §2014(c) and of Title XX of the Social Security Act.

The application of the Appellants' food stamp "income"-determination policies to general training related expense allowances also would violate the Equal Protection and Due Process guarantees of the Fifth and Fourteenth Amendments. As discussed above, the Appellants' policies would treat training related expense allowances exactly like ordinary income from such sources as employment and AFDC, thus assuming that all of such an allowance was disposable for ordinary household expenses. Again, however, such an assumption would be both irrational and contrary to the only justifiable rationale for granting the allowance in the first place, since its result would be that persons receiving training related expense allowances would be provided with only the same amount of food stamp assistance as others who were better off by virtue of receiving an equivalent additional amount of generally disposable income (such as AFDC)—and substantially *less* food stamp assistance than those who did not receive training related expense allowances (but who still had the same food purchasing power).³² Thus, the Appellants' policies would create classifications for which

³²It is *possible* that in a few extraordinary cases, participants in full-time Individual Education and Training Plans will have *no* training related expenses. Such persons *would* be in the same position in terms of food purchasing power as persons receiving \$60 more in AFDC assistance. But the possible existence of a few such cases is hardly a rational basis for a policy that assumes, contrary to the basic rationale for the training related expense allowance, that the allowance is *never* needed in *any* degree.

there was no rational basis, even in the hypothetical context of general training related expense allowances.

At the same time, the Appellants' Food Stamp "income" policies would create an irrebutable presumption that a recipient of a general training related expense allowance of \$60 in connection with an Individual Education and Training Plan would thereby have \$60 additional income available for household needs such as food. While it is *conceivable* that this presumption would be true in some extraordinary situations, it is clear that in most situations it would not be true, and that it is directly contrary to the presumption on which the allowance is based. This is classically the kind of irrebutable presumption that this Court has repeatedly invalidated under the Due Process clauses of the Fifth and Fourteenth Amendments.³³

Thus, even if this case and the District Court's decision had involved generalized training related expense allowances that were not for necessary travel in connection with Individual Education and Training Plans, a decision by the District Court that the application of the Appellants' Food Stamp "income" policies to the allowances so as to reduce Food Stamp assistance was statutorily and constitutionally invalid would have been correct. But this is an issue that is not actually presented by this case.

³³This is not to say that the Appellants could not reduce food stamp assistance in individual cases by showing that a general training related expense allowance was larger than the recipients' needs, or even that the Appellants could not require recipients to demonstrate their expenses in order to rebut a non-conclusive presumption, *cf. Lavine v. Milne*, 96 S.Ct. 1010 (1976). What is objectionable from a Due Process standpoint is the *conclusive* nature of the presumption, especially given its irrationality in most cases.

IV.

THE DISTRICT COURT'S ORDER DOES NOT VIOLATE THE ELEVENTH AMENDMENT.

The District Court's decision in this case included an order that

the defendants recompute the adjusted net income for each person who is presently participating in the food stamp program and who has been paying a wrongfully high price for his food stamp allotment, and that the defendants [make] a forward adjustment of the price of future stamps by reducing the price of food stamp coupons in future months by whatever amount necessary for as many months as necessary so as to fully compensate the recipient financially for food stamps wrongfully denied in the past.

402 F.Supp. at 408; Butz J.S., p. 25a. The State Appellants argue that this order violates the Eleventh Amendment to the United States Constitution. However, this argument completely misconstrues the District Court's order and the nature of the interests protected by the Eleventh Amendment.

Broadly stated, the purpose of the Eleventh Amendment is to bar federal court actions by individuals seeking monetary damages against unconsenting states in the absence of specific Congressional authorization for such actions. *Cf., Fitzpatrick v. Bitzer*, 96 S.Ct. 2666 (1976). Because the District Court's order in this case does not impose any monetary damages on the State (or the State Appellants) there is no Eleventh Amendment issue.

Under the Food Stamp Act, the differential between the value of Food Stamp coupons and the prices paid

for them by recipients is borne exclusively by the federal government. 7 U.S.C. § 2013(a), 2018; 7 C.F.R. 272.4, 272.5; Butz Brief, p. 4, n.2. Thus, that portion of the District Court order requiring "a forward adjustment" of the prices of Food Stamps to be purchased in the future by members of the plaintiff class whose Food Stamp assistance was wrongfully reduced under the invalidated policies of the Appellants will not result in any direct cost to the State. The State Appellants, however, apparently argue that because the State must pay one-half the costs of administering the "forward adjustment," there is a violation of the Eleventh Amendment. State Appellants' Brief, pp. 11-14. This argument is clearly defective, for at least two reasons. First, any administrative costs that may be incurred by the State will be purely ancillary to the observance of a valid judicial decree,³⁴ and therefore are not the equivalent of money damages under the Eleventh Amendment. *See Edelman v. Jordan*, 415 U.S. 651, 668 (1974). Second, the District Court's Order does not even really require the State Appellants, as opposed to the Secretary, to pay any administrative costs. Rather, the requirement that one-half of such costs be paid by the State is imposed by the Food Stamp Act, specifically 7 U.S.C. § 2024. No State is *required* to participate in the Federal Food Stamp program. But participating states are required by statute, as conditions of their participation, to satisfy a number of requirements and to undertake a number of

³⁴The form of the relief is not challenged by the Appellants on other than Eleventh Amendment grounds, and was clearly within the power of the District Court to grant appropriate relief. *See Carter v. Butz*, 479 F.2d 1084 (3d Cir. 1973), *aff'g*, *Tindall v. Hardin*, 330 F.Supp. 563 (W.D. Pa. 1972); *Stewart v. Butz*, 356 F.Supp. 1345 (W.D. Ky. 1973).

responsibilities, including certifying households, 7 U.S.C. §2019(b), providing administrative appeals, 7 U.S.C. §2019(e)(8), and bearing one-half the administrative costs of the program, 7 U.S.C. §2024. Especially in light of the Food Stamp Act's administrative appeals provisions, the administrative costs raised by the State Appellants are of the kind which the states must expect to incur as a result of their participation in the Food Stamp program. At the same time, there can be no question as to the validity of Congress' imposing on the states' conditions such as these for their voluntary participation in a primarily federally funded public assistance program. *See Steward Machine Co. v. Davis*, 301 U.S. 548 (1937).

In short, any administrative costs which the state may have to bear as a result of the District Court's Order are merely ancillary to a valid prospective order, and are clearly anticipated by the Food Stamp Act. These ancillary administrative costs are of the sort that inhere in essentially any decision in favor of recipients in a federal action with regard to public assistance payments, *see, e.g., U.S. Dept. of Agriculture v. Moreno*, 413 U.S. 528 (1973), *U.S. Dept. of Agriculture v. Murry*, 413 U.S. 508 (1973), *Lewis v. Martin*, 397 U.S. 552 (1970), *King v. Smith*, 392 U.S. 309 (1968), and clearly do not raise any legitimate Eleventh Amendment issue.

CONCLUSION

The reduction of Food Stamp assistance on the basis of a government allowance for necessary travel in connection with an education and training program funded under Title XX of the Social Security Act violates the Food Stamp Act's central purpose to increase the food purchasing power of low-income

households; penalizes and discourages participation in such education and training programs, in violation of the Food Stamp Act and the Social Security Act; and violates constitutional guarantees of Equal Protection and Due Process. The District Court's judgment enjoining such reductions should be affirmed.

Respectfully submitted,

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APPENDIX A: STATUTES AND REGULATIONS

7 U.S.C. §2014(a):

Except for the temporary participation of households that are victims of a disaster as provided in subsection (b) of this section, participation in the food stamp program shall be limited to those households whose income and other financial resources are determined to be substantial limiting factors in permitting them to purchase a nutritionally adequate diet.

42 U.S.C. §1397:

For the purpose of encouraging each State, as far practicable¹ under the conditions in that State, to furnish services directed at the goal of—

(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency,

(2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency,

(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families,

(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States under section 1397a of this title.

42 U.S.C. § 1397a(a):

(1) From the sums appropriated therefor, the Secretary shall, subject to the provisions of this section and section 1397b of this title, pay to each State, for each quarter, an amount equal to 90 per centum of the total expenditures during that quarter for the provision of family planning services and 75 per centum of the total expenditures during that quarter for the provision of other services directed at the goal of—

(A) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency,

(B) achieving or maintaining self-sufficiency, including reduction or prevention of dependency,

(C) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families.

(D) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(E) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

including expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions). Services that are directed at these goals include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care,

services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, the alcoholics and drug addicts.

* * *

(4) So much of the aggregate expenditures with respect to which payment is made under this section to any State for any fiscal year as equals 50 per centum of the payment made under this section to the State for that fiscal year must be expended for the provision of services to individuals—

(A) who are receiving aid under the plan of the State approved under part A of subchapter IV of this chapter or who are eligible to receive such aid, or

(B) whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of subchapter IV of this chapter, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid, or

(C) with respect to whom supplementary security income benefits under subchapter XVI of this chapter or State supplementary payments, as defined in section 1397f(1) of this title, are being paid, or who are eligible to have such benefits or payments paid with respect to them, or

(D) whose income and resources are taken into account in determining the amount of supplemental payments, as defined in section 1397f(1) of this title, being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him, or

(E) who are eligible for medical assistance under the plan of the State approved under subchapter XIX of this chapter.

* * *

42 U.S.C. § 1397c:

A State's services program planning meets the requirements of this section if, for the purpose of assuring public participation in the development of the program for the provision of the services described in section 1397a(a)(1) of this title within the State—

(1) the beginning of the fiscal year of either the Federal Government or the State government is established as the beginning of the State's services program year; and

(2) at least ninety days prior to the beginning of the State's services program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes and makes generally available (as defined in regulations prescribed by the Secretary after consideration of State laws governing notice of actions by public officials) to the public a proposed comprehensive annual services program plan prepared by the agency designated pursuant to the requirements of section 1397b(d)(1)(C) of this title and, unless the laws of the State provide otherwise, approved by the

chief executive officer, which sets forth the State's plan for the provision of the services described in section 1397a(a)(1) of this title during that year, including—

* * *

(H) a description of how the provision of services under the program will be coordinated with the plan of the State approved under part A of subchapter IV of this chapter, the plan of the State developed under part B of that subchapter, the supplemental security income program established by subchapter XVI of this chapter, the plan of the State approved under subchapter XIX of this chapter, and other programs for the provision of related human services within the State, including the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population,

* * *

Monthly coupon allotments and purchase requirements—48 States and District of Columbia

For a household of—

	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
Monthly net income								
The monthly coupon allotment is—	\$50	\$92	\$130	\$166	\$198	\$236	\$262	\$298

And the monthly purchase requirement is—

[illegible]

7a

\$210 to \$229.99	40	56	58	59	60	61	62	63
\$230 to \$249.99		62	64	65	66	67	68	69
\$250 to \$269.99		68	70	71	72	73	74	75
\$270 to \$289.99		72	76	77	78	79	80	81
\$290 to \$309.99		72	82	83	84	85	86	87
\$310 to \$329.99			88	89	90	91	92	93
\$330 to \$359.99			94	95	96	97	98	99
\$360 to \$389.99			102	104	105	106	107	108
\$390 to \$419.99			111	113	114	115	116	126
\$420 to \$449.99			112	122	123	124	125	135
\$450 to \$479.99				131	132	133	134	144
\$480 to \$509.99				140	141	142	143	153
\$510 to \$539.99				142	150	151	152	162
\$540 to \$569.99				142	159	160	161	171
\$570 to \$599.99					168	169	170	180
\$600 to \$629.99					170	178	179	180
\$630 to \$659.99					170	187	188	181
\$660 to \$689.99					170	196	197	198
\$690 to \$719.99						204	206	207
\$720 to \$749.99						204	215	216
\$750 to \$779.99						204	224	225
\$780 to \$809.99						204	226	234
\$810 to \$839.99							226	243
\$840 to \$869.99							226	252
\$870 to \$899.99							226	258
\$900 to \$929.99								258
\$930 to \$959.99								258
\$960 to \$989.99								258
\$990 to \$1,019.99								258

Iowa Department of Social Services Revised November 5, 1974

SCHEDULE OF ALLOWANCES

Aid to Dependent Children

(This Schedule, effective December 1, 1974, constitutes an allowance of 95% of need, based upon the Consumer's Price Index of 138.5 for December 1973 as related to the base period 1967.)

Number of Persons	1	2	3	4	5	6	7	8	9	Each Additional Person
Amount	145	222	294	356	415	456	518	576	621	69

CHART FOR DETERMINING INCOME IN KIND - ADC

(All figures are on a per person basis.)

Number of Persons	1	2	3	4	5	6	7	8	9
Shelter	41.50	28.50	24.25	21.00	18.00	15.25	14.00	12.75	11.50
Utilities	22.50	14.50	11.75	9.75	8.50	6.75	6.50	6.25	5.25
Supp. & Repl.	9.50	5.50	4.00	3.25	3.00	2.50	2.25	2.00	1.75
Food	39.00	35.25	33.75	32.25	31.25	30.00	30.00	30.00	30.00
Clothing	11.25	11.25	11.25	11.25	11.25	11.25	11.25	11.25	11.25
Per. Care & Supp.	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75	6.75
Med. Cab. Supp.	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50
Communications	13.00	7.75	4.75	3.25	2.75	2.00	1.75	1.50	1.00

See Employees' Manual, Section V, Chapter 5, under heading of **REQUIREMENTS** for instructions covering the use of this Schedule.

**IOWA DEPARTMENT OF SOCIAL SERVICES
EMPLOYEES' MANUAL, Page XIII-8-5
(as revised October 15, 1974;
still in effect)**

INDIVIDUAL EDUCATION AND TRAINING PLAN

PROCESS (cont'd)

Training Related Expense

Individual Education and Training Plan clients attending institutional training facilities are entitled to a training related expense allowance. Clients involved in *part-time* training plan receive .15¢/mile for those miles traveled between home, child care facility and training facility. The total monthly allowance however cannot exceed \$45.00. Clients enrolled in *full-time* training programs are entitled to a full monthly TRE of \$60.00. Full time is interpreted as being the period of time established by the training facility as being "full time". In the absence of such an established time framework, full time will be considered a minimum of 30 hours/week. Any plan involving fewer hours than the criteria established for full time will be considered part-time. Payment of TRE should commence for that month that the client begins training and must be terminated once the client has completed. If a client was already involved in training prior to requesting an IETP, payment of TRE will commence for that month that the plan is approved. TRE may continue for one month after the client has completed training if, during this month, the client is actively seeking employment. The TRE is a vendorized payment and received as a warrant separate from

the regular PA grant warrant. The caseworker is responsible for initiating and terminating TRE and does so by means of the Individual Education and Training Plan Status Report, Form AA-4157-0, see Appendix for forms and instructions.

Writing the Individual Education and Training Plan

The IETP program is designed with the intent of facilitating employment for public assistance clients. No IETP may be approved unless a specific attainable vocational goal is specified. It is understood that basic programs such as GED, Basic Adult Education, Vocational Evaluation, etc. may not include specific vocational goals, but must still be employment oriented.

Once the caseworker has compiled all the necessary information regarding the client's social situation, training/employment goals, child care, and TRE entitlement, the Individual Education and Training Plan, form WI-3301-0 is completed. See Appendix for forms and instructions. The plan shall then be submitted to the DSS Field Office for approval. *No plan may become active until the caseworker has received specific approval for that training plan from the DSS Field Office.*

The department's responsibility for IETP financial assistance begins for that month during which the plan is approved.

IOWA DEPARTMENT OF SOCIAL SERVICES EMPLOYEES' MANUAL, Page XIII-8-5 (as of January 15, 1974)

INDIVIDUAL EDUCATION AND TRAINING PLAN

PROCESS (cont'd)

Training Related Expense

Individual Education and Training Plan clients attending institutional training facilities are entitled to a training related expense allowance. Clients involved in part-time training plans receive 10¢/mile for those miles traveled between home, child care facility and training facility. The total monthly allowance however cannot exceed \$44.00. Clients enrolled in full-time training programs are entitled to a full monthly TRE of \$44.00. Full time is interpreted as being the period of time established by the training facility as being "full time". In the absence of such an established time framework, full time will be considered a minimum of 30 hours/week. Any plan involving fewer hours than the criteria established for full time will be considered part-time. Payment of TRE should commence for that month that the client begins training and must be terminated once the client has completed. If a client was already involved in training prior to requesting an IETP, payment of TRE will commence for that month that the plan is approved. TRE may continue for one month after the client has completed training if, during this month, the client is actively seeking employment. The TRE is a vendorized payment and received as a warrant separate from the regular PA grant warrant. The caseworker is

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The department's responsibility for IETP financial assistance begins for that month during which the plan is approved.

STATE OF IOWA *TITLE XX PLAN*, p. 28

SUMMARY OF OBJECTIVES AND SERVICES

Goal I

To achieve or maintain economic self-support.

* * *

Individual Education and Training Plan Program – to provide to Aid to Families with Dependent Children recipients opportunities for learning or increasing job skills involving vocational classroom training, job placement, and other services to facilitate economic self-support. These services are not available under the Work Incentive Program guidelines and Individual Education and Training Plan Program allows greater flexibility and depth in meeting specialized training and education needs. It is anticipated that the number of individuals which this Objective will reach will be 5,305.

I-2 Individual Education and Training Plan Program,
Recipients of Aid to Families with Dependent
Children

SERVICES:

Employment/Educational Services

Day Care Services

Day Care Centers

In-Home Day Care

Family Day Care Homes

Transportation

Home Management/Functional Education

Homemaker

Family Planning

Health-Related – Families and Children

Housing

APPENDIX B: ADDITIONAL RECORD ITEMS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

KAREN HEIN, Individually and)	
on behalf of all other persons)	
similarly situated,)	Civil Action
Plaintiff)	Number _____
)	
vs.)	
)	
KEVIN J. BURNS, Individually)	
and in his capacity as Commis-)	
sioner of Social Services; and)	AFFIDAVIT
ELIZABETH MASTERSON, Individually)	
and in her capacity as Director)	
of the Muscatine County Depart-)	
ment of Social Services,)	
Defendants)	
STATE OF IOWA)	
)	ss.
COUNTY OF MUSCATINE)	

Karen Hein, being first duly sworn, deposes and states:

1. She resides at 1114 Filmore, Muscatine, Iowa.
2. She is the Plaintiff in the above-entitled action.
3. She has the legal custody of two minor children, ages 12 and 10.
4. She is currently receiving training as a Student Nurse under the Individual Training Program at Saint Luke's School of Nursing in Davenport, Iowa.
5. She has no savings and she has no income except: \$30 a month from the rent of half a house she partially owns; \$199 Aid to Dependent Children; \$44 reimbursement for necessary commuting to Saint Luke's School

of Nursing under said Individual Training Program; and food stamp assistance for which she pays \$58 a month.

6. That her monthly expenses average \$331 per month.

7. That the entire above income is inadequate to provide for the basic necessities of life for herself and her two dependent children.

8. That on September 6, 1972, Mrs. Hein's Individual Training Plan was approved by the Department of Social Services, which provided for payment of her tuition at Saint Luke's School of Nursing and for a \$44 monthly reimbursement for necessary commuting expenses under said Plan.

9. That at about the same time, because of said transportation reimbursement, the purchase price of the amount of food stamps Mrs. Hein was allowed to secure each month was increased by \$12, raising said price from \$46 to \$58 per month, pursuant to Employees' Manual VII-3-16-item d.

10. That she appealed the decision to the Muscatine Department of Social Services, but said office affirmed the decision in a hearing held on February 14, 1973.

11. That she further appealed to the Commissioner of the State Department of Social Services in Des Moines, but the Commissioner affirmed the decision of the Muscatine Department of Social Services on February 23, 1973. •

12. That Affiant has read the foregoing Motion for a Preliminary Injunction and knows the contents thereof, and that the same is true to the best of her knowledge, information, and belief.

/s/ Mrs. Karen Hein
Mrs. Karen Hein

Subscribed and sworn to before me this 16th day of October, 1973.

/s/ Robert DeKoch
Notary Public in and for
Muscatine County

Deliberately left BLANK

with
X stay
allowance,
without
deductions

PLAINTIFF'S EXHIBIT #2, HEARING OF JANUARY 24, 1974

PLAINTIFFS

State of Iowa
Department of Social Services

Exhibit 2
Cause No. 73-240-1
Date JAN 24 1974
U.S. District Court
Southern Dist. of Iowa

ELIGIBILITY AND BASIS OF ISSUANCE WORK SHEET

PART A

Karen Hein Social Security No. 484-48-1532

Head of Household

NEW APPLICATION RE-APPLICATION RE-CERTIFICATION ☒

NUMBER OF ELIGIBLE PERSONS IN HOUSEHOLD 3

PART B

LIST PERSONS WITH INCOME, METHOD OF VERIFICATION, AND AMOUNT

NO.	NAME	METHOD OF VERIFICATION	AMOUNT
	Karen - ADC	C/R	\$220.00
	" income rental prop	"	\$ 28.75
	" Ind. Training Plan	"	\$ 44.00
			\$
			\$

4b

		\$
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MONTHLY NET INCOME \$292.75
If earned income or
training program--less
10%, not to exceed
\$30.00

\$ 4.40

TOTAL MONTHLY NET INCOME

\$288.35

PART C

LIQUID RESOURCES

NAME	DESCRIPTION	METHOD OF VERIFICATION	AMOUNT
Karen	Cash	C/R	\$ 20
Anthony	savings acct	"	\$ 30
			\$
			\$

TOTAL LIQUID RESOURCES

\$ 50

5b

NON-LIQUID RESOURCES

DESCRIPTION	VALUE	LESS INDEBTEDNESS	NET VALUE
home	exempt		
car			

TOTAL NON-LIQUID RESOURCES \$ -

TOTAL VALUE OF LIQUID AND NON-LIQUID RESOURCES \$ 50

PART D

ENTER VERIFICATION IF NEEDED

6b

A. MEDICAL EXPENSES	+	-	
B. CHILD CARE	+	-	
C. TUITION AND MANDATORY FEES FOR EDUCATION	+	-	
D. OTHER HARDSHIP DEDUCTIONS	+	-	
E. TOTAL		-	
F. TOTAL MONTHLY NET INCOME (Total of Part B)		288.35	

G. LESS LINE E

H. TOTAL

I. TOTAL

J. ^{1/2} RENT OR MORTGAGE PAYMENT
MONTHLY

K. UTILITY ALLOWANCE ^{1/2} actual

L. ^{1/2} TAXES AND INSURANCE MONTHLY

M. OTHER SHELTER DEDUCTIONS

N. TOTAL

O. LESS LINE I

P. TOTAL

Q. ENTER LINE H

R. LESS LINE P

S. ADJUSTED NET INCOME

G. LESS LINE E	-		
H. TOTAL	288.35		
	x .30		
I. TOTAL	86.5050		
J. ^{1/2} RENT OR MORTGAGE PAYMENT MONTHLY	+ 70.87		C/R
K. UTILITY ALLOWANCE ^{1/2} actual	+ 28.97		
L. ^{1/2} TAXES AND INSURANCE MONTHLY	+ 25.88		
M. OTHER SHELTER DEDUCTIONS	+ 22.25		see letter 8/3
N. TOTAL	147.97		
O. LESS LINE I	- 86.51		
P. TOTAL	61.46		
Q. ENTER LINE H	288.35		
R. LESS LINE P	- 61.46		
S. ADJUSTED NET INCOME	226.89		

7b

PART E

ADJ. NET INCOME	NO. PERSONS	COUPON ALLOTMENT	CASH	BONUS	TOTAL
226.89	3	FULL	58		94
		THREE-FOURTHS	43.50		71
		ONE-HALF	29		47
		ONE-FOURTH	14.50		24

APPLICATION APPROVED. CERTIFICATION: FROM

THROUGH 8b

APPLICATION DENIED.

REASON

APPLICATION PENDING.

AUTHORIZED REPRESENTATIVE

(Member of Household)

The information stated on the household's application has been reviewed and evaluated by

/s/ Rita Broders

(Caseworker's Signature)

(Date)